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CENTRAL FAX CENTER****JUN 11 2008**60,469-403 PUS1
PA-0004416-US1**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Richard J. Ericson
Serial No.: 10/684,171
Filed: 10/10/2003
Group Art Unit: 3654
Examiner: Langdon, Evan H.
Title: TRACTION ENHANCED CONTROLLED PRESSURE
FLEXIBLE FLAT TERMINATION DEVICE

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant now submits its brief in this appeal. A credit card payment form in the amount of \$510.00 is enclosed. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Real Party in Interest

Otis Elevator Company is the real party in interest. Otis Elevator Company is a business unit of United Technologies Corporation.

Related Appeals and Interferences

There are no related appeals or interferences.

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PA-0004416-US1**Status of the Claims**

Claims 1-21 and 24 are cancelled. Claims 22, 23 and 25-27 are pending.

Claim 27 is allowed.

Claims 22, 23, 25 and 26 are on appeal.

Claims 22, 23 and 25-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,189,671 (the *Mardis* reference).

Status of Amendments

There are no unentered amendments.

Summary of Claimed Subject Matter

The claims on appeal relate to a termination device for use in an elevator system that is applied to a tension member that is used for suspending elevator loads. One example embodiment upon which the claims on appeal read is illustrated, for example, in Figures 1, 2 and 16-18.

According to independent claim 22, an elevator system 12 has a tension member 22 for suspending the elevator loads (e.g., car 14 and counterweight 16). (Page 4, lines 1-4) A termination device 26, 28 includes a first compressive system 30, 32, 80, 96 to engage and compress the tension member 22 to provide a first retaining mechanism. (Page 4, lines 14-17) A second compressive system 130 comprises a clamp 150, 132 engaging the tension member 22. (Page 17, lines 15-16) The second compressive system 130 prevents further slippage of the tension member 22 by mechanical deformation of the tension member 22 only when slippage of the tension member 22 through the device 26-28 first occurs. (Page 17, lines 28-30)

Grounds of Rejection to be Reviewed on Appeal

Claims 22, 23 and 25-26 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2,189,671 (the *Mardis* reference).

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PA-0004416-US1**ARGUMENT**

There is no *prima facie* case of anticipation because the Examiner contends that the device of the *Mardis* reference operates in a manner that is directly contrary to the express and unequivocal teachings of the *Mardis* reference. The device of the *Mardis* reference operates in a manner that makes it impossible to establish a *prima facie* case of anticipation against any of Appellant's claims.

What the *Mardis* reference teaches.

The Examiner contends that the *Mardis* reference includes "a first compressive system (2, 4, 6) to provide a first retaining mechanism." That portion of the *Mardis* reference is described in column 1, lines 44-55 and column 2, line 1. Plate-like members 2 and 6 and a semi-circular shaped outer end portion 4 are adapted to receive a rope 9. The two plate-like members are adapted to hold the rope between them toward the live end of the rope. The live end of the rope is that end that extends toward the load on the rope.

The plate-like members have grooves 7 and 8 adapted to hold the live end of the rope. These grooves "preferably have a smooth surface while the corresponding grooves 7A and 8A on that side of the thimble adapted to hold the rope toward the dead end thereof are preferably corrugated or otherwise provided with suitable means for gripping the same." (Column 2, lines 6-13)

The Examiner also contends that the *Mardis* reference discloses "a second compressive system (18) comprising a clamp engaging the tension member (9), the second compressive system prevents further slippage of the tension member by mechanical deformation of the tension member only when slippage of the tension member through the device first occurs (page 1, lines 40-50)."

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The Examiner then contends, "it is inherent that *when slippage occurs*, the U-bolts 18 will dig into the rope 9 and cause mechanical deformation." (Emphasis added.) This is where the Examiner departs from the teachings of the *Mardis* reference and imagines a result that is not only missing from the *Mardis* reference but impossible to achieve with the *Mardis* thimble based upon a plain reading of the express teachings of the *Mardis* reference, itself. There never will be a situation in the *Mardis* reference "when slippage occurs" such that the U-bolts 18 would resultantly "dig into the rope 9 and cause mechanical deformation." On page 2, column 1, lines 3-17, the *Mardis* reference states:

As a result of my invention, it will be seen that is provided a relatively thin and flat rope thimble, and that the dead end of the rope can be securely clamped in position by means of the segmental clamp 13 or U-bolts 18 and the adjacent portion of the rope toward the live end thereof threaded or looped under tension between the plate-like members 6 and 2 and securely clamped therebetween without any damage thereto. It will also be seen that the rope thimble of this invention is clamped securely over substantially the entire loop of the rope, thereby *eliminating the danger of any slippage or distortion whatsoever* of any of the strands of that part of the rope looped around the thimble. (Emphasis added)

It is clear that the device of the *Mardis* reference does not allow for any slippage or distortion whatsoever of the rope secured by that device. Without any danger of any slippage or distortion whatsoever, it is impossible for the U-bolts 18 to act responsive to slippage to "dig into the rope 9 and cause mechanical deformation" as suggested by the Examiner.

Given that the *Mardis* explicitly states it is impossible for any slippage to occur around the thimble, it is impossible for the Examiner's imagined result to ever occur. There must be slippage through the "first compressive system (2, 4, 6)" in order for the "second compressive system (18)" to operate in a manner consistent with Appellant's claim 22. Because *Mardis* expressly teaches that there is no possibility for any such slippage or distortion, it is impossible for the Examiner's "second compressive system (18)" to be considered the same as the second compressive system of Appellant's claim 22. Appellant's claim makes it clear that the second compressive system

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prevents further slippage of the tension member only when slippage of the tension member through the device first occurs. In other words, the claimed second compressive system prevents further slippage responsive to some slippage through the device. Because *Mardis* does not allow for any slippage, it is impossible for any slippage through the device to occur first and then for the "second compressive system" to prevent further slippage by mechanical deformation.

Additionally, it is impossible for the U-bolts 18 to somehow "dig into the rope 9 and cause mechanical deformation" in response to some imaginary slippage of the rope 9 through *Mardis'* thimble. It is clear that the U-bolts 18 are set in a single position relative to the remaining portion of the thimble. If the rope 9 were to operate in a manner that is completely impossible based upon *Mardis'* teachings and would slip relative to the thimble, there is nothing about the rope 9 or the U-bolts 18 that would cause any different relationship between them compared to when the U-bolts 18 are initially set about the rope 9. There is no movement of the U-bolts 18, for example, such that the U-bolts 18 would somehow "dig into the rope 9 and cause mechanical deformation." There is nothing whatsoever about the arrangement in the *Mardis* reference that supports the Examiner's interpretation.

As the Examiner's interpretation of the *Mardis* reference is completely unsupported by the reference, it is unreasonable and there is no *prima facie* case of anticipation.

The rejection of claims 22, 23, 25 and 26 must be reversed.

As explained above, it is impossible to establish a *prima facie* case of anticipation based upon the *Mardis* reference. The thimble eliminates any slippage or distortion whatsoever of the rope 9 relative to the thimble. The express teachings of that reference make it clear that it is impossible for any portion of the *Mardis* thimble to operate as the second compressive system of Appellant's claims. There is no *prima facie* case of anticipation.

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PA-0004416-US1**Claim 25 is separately patentable.**

When rejecting claim 25, the Examiner suggests that the U-bolts 18 include "grooves" and that the thin body portion 3 includes ridges that complement the grooves on the U-bolts 18. There is nothing in the *Mardis* reference that suggests anything of the sort. As can be appreciated from Figure 5, there are no grooves on the U-bolt 18. The lines drawn in Figure 5 on the U-bolt 18 are intended to show the contour (i.e., smooth, rounded outside surface) of the U-bolt 18. Even if the groove 7 in the vicinity of the U-bolts 18 is "corrugated or otherwise provided with suitable means for gripping" the rope, there is nothing about the corrugation that complements any imagined grooves on the U-bolts 18. Therefore, in addition to there being no *prima facie* case of anticipation against claim 22, there is a separate reason for finding no *prima facie* case of anticipation against claim 25.

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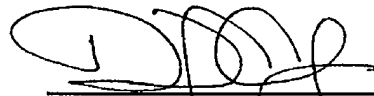
The *Mardis* reference clearly teaches that it eliminates any possibility of any slippage or distortion whatsoever of a rope 9 secured in the thimble of the *Mardis* reference. The Examiner's unreasonable interpretation of the reference goes directly contrary to the express teachings of it. The Examiner requires the U-bolts 18 to operate responsive to slippage through the thimble even though *Mardis* says that his thimble eliminates "any slippage or distortion whatsoever." The operation of Appellant's second compressive system can never occur in the *Mardis* thimble according to the express teachings of that reference. Therefore, there is no *prima facie* case of anticipation and the rejection of claims 22, 23 and 25-26 must be reversed.

Respectfully submitted,

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June 11, 2008

Date



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CERTIFICATE OF MAILING

I hereby certify that the enclosed **Appeal Brief** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop Appeal Brief - Patents Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on June 11, 2008.


Theresa M. Palmateer

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PA-0004416-US1**APPENDIX OF CLAIMS**

22. An elevator system having a tension member for suspending the elevator loads and a termination device for the tension member, the termination device including:

a first compressive system to engage and compress the tension member to provide a first retaining mechanism; and

a second compressive system comprising a clamp engaging the tension member, the second compressive system prevents further slippage of the tension member by mechanical deformation of the tension member only when slippage of the tension member through the device first occurs.

23. The elevator system according to claim 22, wherein the tension member engagement with the first compressive system defines a load side and a cut side of the tension member, and wherein the clamp is engaged with the cut side of the tension member.

25. The elevator system according to claim 22, wherein the clamp includes a first portion and a second portion, the first portion including grooves and the second portion including ridges that complement the grooves such that upon application of a clamping force the interaction of the grooves and ridges retain the tension member.

26. The elevator system according to claim 22, wherein the clamp includes a first portion, a second portion, and a fastener engaged with both portions to provide a clamping force between the two portions to retain the tension member.

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EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.